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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/753,531	01/09/2004	Yasuhiko Kenmochi	2038-320	6485

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EXAMINER

HILL, LAURA C

ART UNIT PAPER NUMBER

3761

DATE MAILED: 12/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.



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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
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EXAMINER
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20041102

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Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents

## Office Action Summary

Application No.

10/753,531

Applicant(s)

KENMOCHI ET AL.

Examiner

Laura Hill

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 20041102.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## **DETAILED ACTION**

### ***Information Disclosure Statement***

The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A(1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Specifically, there was no English translation of the abstract of JP 2002-35033 included. Therefore, unless the examiner on form PTO-892 has cited the reference, it has not been considered.

### ***Specification***

1. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claim 1 is rejected under 35 U.S.C. 102(e) as being anticipated by Otsubo et al. (US 2004/0133178). The Otsubo et al. reference discloses a disposable pull-on wearing article composed of front and rear waist regions 32,24 and a crotch region 33 extending between these waist regions (see abstract, lines 1-4).

The Otsubo et al. reference discloses a pair of end flaps 6 formed by portions of the chassis 1 of the absorbent panel and extending in waist-surrounding direction in front and rear waist regions 32,34 that is analogous to waist-surrounding upper end margin 9 (see paragraph 0028, lines 7-11).

The Otsubo et al. reference further discloses transversely opposite side edge zones 7c of the waist member 1a extending in the longitudinal direction to form a waist-hole 10 and a pair of leg-holes 11a and 11b. The side edge zones 7c are analogous to the waist lateral margins claimed (see paragraph 0029, lines 7-8 and 11-12).

The Otsubo et al. reference further discloses side flaps 5 that extend in the thigh-surrounding direction of the crotch region and are analogous to first and second leg-surrounding lateral margins claimed (see paragraph 0031, lines 1-4).

The Otsubo et al. reference discloses a liquid-absorbent panel 4 interposed between the inner and outer sheets 2,3 located in the crotch region (see paragraph 0027, lines 6-8).

The Otsubo et al. reference discloses a crotch region 33 formed "with a first imaginary tuckable guide line 16 and a second imaginary tuckable guide line 17 intersecting each other in the transversely middle zone 33a" (see paragraph 0034, lines 4-7). The Otsubo et al. reference further discloses a "crotch region 33 is divided into first tuckable side zone 19 having a generally trapezoid defined by the peripheral edge of the left leg-hole 11a and first and second imaginary tuckable guide lines 16, 17" analogous to first crotch zone, a second tuckable side zone 20 defined by peripheral edge of the right leg-hole 11b and the first and second imaginary tuckable guide lines 16,17, and a front zone 21 defined by 1st and 2nd lines 16,17 and front waist region 32 that is outside of 1st and 2nd zones and therefore analogous to third zone claimed (see paragraph 0036, lines 1-9).

The Otsubo et al. reference discloses first and second elastic members 12 attached to side flaps 5 that extend in a thigh-surrounding direction across first zone to third zone as claimed (see paragraph 0031, lines 1-6).

The Otsubo et al. reference discloses a pair of darts 23 on the first and second tuckable side zones 19,20 that extend in the thigh-surrounding direction in a curved convex inwardly state. Having formed with the darts 23, the areas 24 in the first and second tuckable side zones 19,20 extend downwardly in the longitudinal direction of the article and are capable of pulling the first and second zones under a contractile force as claimed (see paragraph 0037 ,lines1-3 and 13-16).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

5. Claims 2, 3 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Otsubo et al. (US 2004/0133178) as applied to Claim 1. With regard to Claims 2 and 3, the Otsubo et al. reference discloses elastic members 41 as seen in Figure 9, which comprises a plurality of elastic strands in the thigh-surrounding direction (see paragraph 0065, lines 11-12). It is well known by those skilled in the art that elastomeric materials can be elongated by at least 25% as claimed. Also, it is well known that elastomeric materials can be stretched with the stress ranges claimed. Therefore it would be obvious to have first and second elastic members with claimed contraction percentage and stretch stress ranges to improve functionality of aforementioned elastic members. With regard to Claim 6, the Otsubo et al. reference discloses an absorbent panel formed separately from the chassis 1 in the form of pad comprising a liquid-

pervious inner sheet 2 defining a body facing side, a liquid-impervious outer sheet 3 defining a garment facing side and a liquid-absorbent core 44 disposed between the inner and outer sheet (see paragraph 0061, lines 3-8).

6. Claims 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Otsubo et al. in view of Minato et al. (EP 1,346,713 A2) as applied to Claim 1. With regard to Claim 4, the Minato et al. reference discloses folding guide lines 15 that are defined by low stiffness zones 25 of liquid-absorbent panel 4 with zones having a stiffness lower than stiffness in the other zone of the panel (see Column 7, lines 30-34). Low stiffness zones 25 are located near the folding guides 15 without defined first, second and third zones as claimed. Although the Minato et al. reference does not define the stiffness difference in analogous zones as claimed, it would be obvious to combine the three distinct zones taught by Otsubo et al. discussed above with the varying zone stiffness taught by Minato et al. to have core zones with different stiffness values. With regard to Claim 5, it would be obvious to one skilled in the art that altering the fabric density or removing the core from the first and second zones would yield the lower stiffness claimed.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The Shikata et al. reference, U.S. patent no. 4,661,102 is cited for showing a disposable diaper having front and rear waist and crotch portions, an upper end margin, waist and leg lateral margins, crotch tensioning means analogous to tapering second folding guide lines and a longitudinal edge analogous to first guiding



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fold lines. The Suzuki et al. reference, <sup>US</sup> ~~E.P.~~ patent no. <sup>6,165,160</sup> ~~988,846 A2~~ is cited for showing front, rear and crotch regions, waist upper end with waist elastic member, waist lateral margins, leg lateral margins, an absorbent core and transverse first fold guide lines.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laura Hill whose telephone number is (571) 272-7137. The examiner can normally be reached on 8:00 AM-5:30 PM (off every other Friday).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Larry Schwartz can be reached on (571) 272-4390. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Laura Hill  
Examiner  
Art Unit 3761

LCH

*LCN*

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